

Reprint
as at 1 December 2014

Human Rights Amendment Act
1994

Public Act 1994 No 138
Date of assent 9 December 1994

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this eprint. See the notes at the end of this eprint for further details.

This Act is administered by the Ministry of Justice.

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An Act to amend the Human Rights Act 1993

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title

This Act may be cited as the Human Rights Amendment Act 1994, and shall be read together with and deemed part of the Human Rights Act 1993 (hereinafter referred to as the principal Act).

**Application of principal Act and
Human Rights Commission Act 1977 to
superannuation schemes**

**2 Application of principal Act to superannuation schemes
providing benefits on account of marital status**

- (1) Notwithstanding any rule of law, nothing in section 22 or section 44 or section 70 of the principal Act shall prevent, or be taken ever to have prevented, the provisions of a superannuation scheme, or the trustees, the supervisor, or the manager of the scheme, from providing, on the death of a member of the scheme, a benefit for either—
- (a) The spouse of that member; or
 - (b) the civil union partner or de facto partner of that member,—
- without providing a similar or corresponding or equivalent benefit on the death of other members of the scheme.
- (2) Subject to subsection (5) of this section, this section applies in respect of superannuation schemes established before or after the commencement of this Act.
- (3) This section applies notwithstanding any judgment, decision, or order of any Court or tribunal given or made before or after

the commencement of this Act in proceedings commenced before the commencement of this Act.

- (4) Nothing in section 153(1) of the principal Act limits or affects this section.
- (5) Nothing in this section applies to the provision of benefits under a superannuation scheme or by the trustees, the supervisor, or the manager of a scheme in respect of any person who, at any time on or after the 1st day of January 1996, becomes a member of the scheme unless,—
 - (a) Immediately before becoming a member, that person was a member of another superannuation scheme that provides or provided, or the trustees, the supervisor, or the manager of which provide or provided, benefits of a kind referred to in paragraph (a) or paragraph (b) of subsection (1) of this section; and
 - (b) That person became a member of the first-mentioned scheme as a result of a requirement, or the exercise of a right, to leave that other scheme by reason of any merger, takeover, or restructuring of, or reorganisation of the business of, that person's employer.
- (6) Nothing in this section affects the validity of any amendment to the instrument or conditions governing a superannuation scheme made pursuant to section 72 of the principal Act before the commencement of this Act.

Section 2(1): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Subsection (1)(b) was substituted, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

Section 2(5): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 2(5)(a): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

3 Application of principal Act to superannuation schemes providing benefits for children and dependants

- (1) For the avoidance of doubt, it is hereby declared that nothing in section 22 or section 44 or section 70 of the principal Act shall prevent, or be taken ever to have prevented, the provisions of a superannuation scheme, or the trustees of the scheme, from providing, on the death of a member of the scheme, a benefit

for a child or dependant of that member's family, including a child or dependant belonging to a particular class determined by reference to age, disability, or employment status without providing a similar or corresponding or equivalent benefit on the death of other members of the scheme.

- (2) This section applies in respect of superannuation schemes established before or after the commencement of this Act.
- (3) This section applies notwithstanding any judgment, decision, or order of any Court or tribunal given or made before or after the commencement of this Act in proceedings commenced before the commencement of this Act.

4 Savings in respect of certain superannuation schemes

- (1) For the avoidance of doubt, it is hereby declared that nothing in section 22 or section 44 of the principal Act relating to different treatment on the ground of sex or marital status shall apply, or be taken ever to have applied, to—
 - (a) A superannuation scheme to which subsection (2) of section 88 of the Human Rights Commission Act 1977 applied, except in respect of a person who became a member of the scheme on or after the 1st day of April 1980 or to whom amendments to the scheme were applied pursuant to subsection (4) of that section; or
 - (b) A superannuation scheme established as an alternative to making amendments of the kind referred to in subsection (4) of section 88 of the Human Rights Commission Act 1977 to an existing scheme, except in respect of a person who became a member of the scheme by virtue of subsections (4) and (5) of that section.
- (2) For the avoidance of doubt, it is hereby further declared that where any superannuation scheme was amended for the purpose of ensuring that its operation did not involve a breach of section 15(1) or section 24(1) of the Human Rights Commission Act 1977, nothing in the principal Act, and nothing in those amendments, shall deprive, or be taken ever to have deprived, any person who joined the scheme before the date on which those amendments came into force of any right or option to retire at a particular age or on a particular date or to

become entitled under the scheme to a pension or other benefit, unless that person relinquishes that right or option.

5 Application of Human Rights Commission Act 1977 to superannuation schemes

- (1) Notwithstanding any rule of law, nothing in section 15(1) or section 24(1) or section 88 of the Human Rights Commission Act 1977 shall be taken ever to have prevented the provisions of a superannuation scheme, or the trustees of the scheme, from providing, on the death of a member of the scheme, a benefit for either—
 - (a) The spouse of that member; or
 - (b) the civil union partner or de facto partner of that member,—without providing a similar or corresponding or equivalent benefit on the death of other members of the scheme.
- (2) This section applies notwithstanding any judgment, decision, or order of any Court or tribunal given or made before or after the commencement of this Act in proceedings commenced before the commencement of this Act.
- (3) Nothing in section 153(1) of the principal Act limits or affects this section.
- (4) Nothing in this section affects the validity of any amendment to the instrument or conditions governing a superannuation scheme made pursuant to section 90 of the Human Rights Commission Act 1977.

Subsection (1)(b) was substituted, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

Amendments to the principal Act

6

This section amended s 70(1) of the principal Act

7

This section substituted s 72 of the principal Act

Eprint notes**1 *General***

This is an eprint of the Human Rights Amendment Act 1994 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this eprint*

This eprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this eprint*

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150
